

Filed for intro on 01/30/95
Senate Bill _____
By _____

House Bill No.HB0117
By Westmoreland

AN ACT to amend Tennessee Code Annotated, Title 37; Title 68
and Title 71, relative to child fatality prevention.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1.

(a) Tennessee Code Annotated, Title 68, is amended by inserting Sections 1(b) through 6 of this act as a new, appropriately designated chapter.

(b) The act shall be known as, and may be cited as, "The Child Fatality Review and Prevention Act of 1995".

(c) There is hereby created the Tennessee child fatality prevention team. For administrative purposes only, the state team shall be attached to the department of health.

(d) The state team shall be composed of eleven (11) members as provided herein. Any ex officio member, other than the chief medical officer, may designate an agency representative to serve in his or her place. Members of the state team shall be as follows:

(1) The chief medical officer, who shall chair the state team;

- (2) The attorney general and reporter;
- (3) The director of the division of social services, department of human services;
- (4) The director of the Tennessee bureau of investigation;
- (5) The director of the division of maternal and child health, department of health;
- (6) The commissioner of education;
- (7) The commissioner of mental health and mental retardation;
- (8) The director of the administrative office of the courts;
- (9) The executive director of the commission on children and youth;
- (10) A public member, to be appointed by the governor; and
- (11) The team coordinator, to be appointed by the governor.

(e) All members of the state team shall be voting members. All vacancies shall be filled by the appointing or designating authority in accordance with the requirements of subsection (d).

SECTION 2. The state team shall:

- (a) Review current deaths of children when those deaths are attributed to child abuse or neglect or when the decedent was reported as an abused or neglected juvenile, pursuant to Tennessee Code Annotated, Section 37-1-403, at any time before death;
- (b) Report to the governor and the general assembly concerning the state team's activities and its recommendations for changes to any law, rule, and policy that would promote the safety and well-being of children;
- (c) Upon request of a local team, provide technical assistance to such team;
- (d) Periodically assess the operations of child fatality prevention efforts and make recommendations for changes as needed;

(e) Work with the team coordinator to develop guidelines for selecting child deaths to receive detailed, multidisciplinary death reviews by local teams; and

(f) Receive reports of findings and recommendations from local teams, and work with the team coordinator to implement recommendations.

SECTION 3.

(a) Community child fatality review teams shall be established in every county of the state. Each community child fatality review team shall:

(1) Review, in accordance with the procedures established by the state team:

(A) Selected active cases in which children are being served by child protective services; and

(B) Cases in which a child died as a result of suspected abuse or neglect; and

(i) A report of abuse or neglect was made about the child or the child's family within the previous twelve (12) months, or

(ii) The child or the child's family was a recipient of child protective services within the previous twelve (12) months.

(2) Submit annually to the state team recommendations, if any, and advocate for system improvements and needed resources where gaps and deficiencies may exist.

(b) In addition, each community child fatality review team may review the records of all additional child fatalities and report findings in connection with these review to the team coordinator.

SECTION 4.

(a) Each community child fatality review team shall consist of representatives of public and nonpublic agencies in the community that provide services to children and

their families and other individuals who represent the community. No single team shall encompass a geographic or governmental area larger than one county.

(b) Each team shall include the following:

(1) The department of human services' director of social services within the county, and a member of the director's staff;

(2) A local law enforcement officer, to be appointed by the county legislative body;

(3) An attorney from the district attorney's office, to be appointed by the district attorney;

(4) The executive director of the local community action agency;

(5) The superintendent of each local education agency located in the county, or the superintendent's designee;

(6) A local mental health professional, to be appointed by the commissioner of mental health and mental retardation;

(7) The director of the county health department; and

(8) A local health care provider, to be appointed by the commissioner of health.

(9) An emergency medical services provider or firefighter, to be appointed by the county legislative body;

(10) A juvenile judge, to be appointed by the director of the administrative office of the courts;

(11) A county medical examiner, to be appointed by the chief medical officer;

(12) A representative of a local day care facility or head start program, to be appointed by the commissioner of human services; and

(13) A parent of a child who died before reaching the child's eighteenth (18th) birthday, to be appointed by the county legislative body.

The team coordinator shall serve as an ex officio member of each community team. The county legislative body may appoint a maximum of five (5) additional members to represent county agencies or the community at large. Vacancies on a community team shall be filled by the original appointing authority.

(c) Each community child fatality review team shall elect a member to serve as chair at the team's pleasure.

(d) Each community team shall meet at least four (4) times each year.

(e) The department of human services' director of social services for the county shall call the first meeting of the community team. Thereafter, the chair of each community team shall schedule the time and place of meetings, in consultation with these directors, and shall prepare the agenda. The chair shall schedule team meetings no less often than once per quarter and often enough to allow adequate review of the cases selected for review. Within three (3) months of election, the chair shall participate in the appropriate training developed by the state team.

SECTION 5.

(a) Notwithstanding the provisions of any law to the contrary, the Tennessee child fatality prevention team and each community child fatality review team shall have access to all medical records, hospital records, and records maintained by this state, any county, or any local agency, as necessary to carry out the purposes of this act, including police investigations data, medical examiner investigative data, health records, mental health records, and social services records. The state team and each community team shall not, as part of the review authorized under this act, contact, question, or interview the child, the parent of the child, or any other family member of the child whose record is being reviewed. Any member of a community team may share, only in an official meeting of that team, any information available to that member that the community team needs to carry out its duties.

(b) Meetings of the Tennessee child fatality prevention team and each community child fatality review team shall not be subject to the provisions of Tennessee Code Annotated, Title 8, Chapter 44, Part 1. However, the state and community teams may hold periodic public meetings to discuss, in a general manner not revealing confidential information about children, and families, the findings of their reviews and their recommendations for preventive actions. Minutes of all public meetings, excluding those of executive sessions, shall be kept in compliance with Tennessee Code Annotated, Section 8-44-104. Any minutes or any other information generated during any executive session shall be sealed from public inspection.

(c) All otherwise confidential information and records acquired by the Tennessee child fatality prevention team or any community child fatality review team in the exercise of their duties are confidential; are not subject to discovery or introduction into evidence in any proceedings; and may only be disclosed as necessary to carry out the purposes of the state team or community teams. In addition, all otherwise confidential information and records created by a community team in the exercise of its duties are confidential; are not subject to discovery or introduction into evidence in any proceedings; and may only be disclosed as necessary to carry out the purposes of the team. No member of the state team, a community team, nor any person who attends a meeting of the state team or a community team, may testify in any proceeding about what transpired at the meeting, about information presented at the meeting, or about opinions formed by the person as a result of the meetings. This subsection shall not, however, prohibit a person from testifying in a civil or criminal action about matters within that person's independent knowledge.

(d) Each member of a community child fatality review team shall sign a statement indicating an understanding of and adherence to confidentiality requirements, including the possible civil or criminal consequences of any breach of confidentiality.

(e) Cases receiving child protective services at the time of review by a community team shall have an entry in the child's protective services record to indicate that the case was received by that team. Additional entry into the record shall be at the discretion of the local director of social services.

(f) The state team shall adopt rules to implement this act, including but not necessarily limited to, policies to govern reviews conducted by community child fatality prevention teams. In particular, these rules shall allow information generated by an executive session of a community team to be accessible for administrative or research purposes only.

SECTION 6. To the extent of funds available, the state team may hire staff or consultants to assist the state team and community teams in completing its duties.

SECTION 7. For purposes of appointments, organization, and rulemaking, this act shall take effect on becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect on January 1, 1996.

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